

REMARKS

This paper is filed in response to the Office Action mailed on January 11, 2005.

In the Office Action, claim 9 is objected to as depending from itself. In response, claim 9 has been amended to make it depend from amended claim 1 thereby traversing this rejection.

Claim 7 and 25 stand rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite. In response, claim 7 and 25 have been amended to recite that the bead is hollow and has a cross-section that is rectangular in shape thereby traversing this rejection.

Next, the Office Action rejects claims 1-2, 4-5, 7, 9 and 15 under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 2,049,344 ("Wittke"). In response, claims 1 and 15 have been amended to traverse this rejection. Specifically, claim 15 has been combined with allowable claim 17 thereby rendering claim 15 allowable.

Claim 1 has been amended to clarify the configuration of the caster assembly with respect to the tank. Specifically, claim 1 has been amended to make it clear that the outer shell and the caster wheel are disposed opposite the outer wall of the caster assembly from the tank thereby placing the outer shell and wheel radially outside of the tank as illustrated in all of the figures of the present application.

In contrast, Wittke is directed only towards a caster assembly whereby the casters are disposed beneath the lower panel 28 of the bucket. The configuration disclosed in Wittke is much more prone to tipping as the actual footprint provided by the three casters of Wittke is smaller than the radius of the lower panel 28 of the Wittke bucket.

In contrast, as shown in all of the figures of the present application, the caster wheels are disposed radially outside of the tank thereby increasing the footprint of the tank and therefore making the tank less prone to tipping. Wittke provides no design for mounting

caster wheels radially outside of a tank and therefore Wittke cannot anticipate nor render obvious claim 1 or dependent claim 2, 4-5, 7 or 9.

Further, under MPEP § 2131,

[t]o anticipate a claim, the reference must teach every element of the claim. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

Citing, Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Wittke does not teach or suggest an outer shell disposed outside of the tank which is connected to a caster thereby placing the caster outside of the tank. Wittke does not teach or suggest any outer shell connected to an outer wall at all. The outer wall 16 of Wittke is not connected to any outer shell. Further, Wittke does not teach or suggest an outer shell and caster wheel disposed opposite an outer wall from the tank as cited in independent claim 1.

Therefore, Applicants respectfully submit that the anticipation rejections of claims 1-2, 4-5, 7, 9 and 15 have been traversed.

Next, the Patent Office rejects claims 3 and 16 under 35 U.S.C. §103 as being obvious in view of Wittke. However, claim 16 depends from now-allowable claim 15 thereby traversing this rejection. With respect to claim 3, Applicants respectfully submit that the amendment to claim 1 traverses this rejection.

Specifically, under MPEP §§ 2142 and 2143,

[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or

suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Citing, In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); *see also* MPEP § 2143-§ 2143.03 for decisions pertinent to each of these criteria.

Dependent claim 3 nor independent claim 1 is not obvious in view of Wittke because Wittke is directed toward an entirely different problem--mounting casters beneath a bucket as opposed to amended claim 1 where the casters are mounted radially outside of the tank. Again, Wittke does not teach or suggest any way to enlarge the footprint and reduce tippability as provided by the structure of amended claim 1. Thus, there is no way to modify Wittke nor is there any suggestion or motivation provided in Wittke to create caster assemblies that mount to a tank so that the caster wheel is disposed radially outside of the tank. Wittke does not address this problem and therefore provides no motivation or suggestion as to how to modify the structures of Wittke to address this problem or arrive at any structure remotely similar to amended claim 1. Further, Wittke also does not teach or suggest every claim limitation of amended claim 1 and therefore the obviousness rejection of amended claim 1 or dependent claim 3 in view of Wittke is improper and should be withdrawn.

Next, claim 8 and 18 are rejected under 35 U.S.C. §103 as being obvious in view of Wittke in view of U.S. Patent No. 2,483,241 ("Shepherd"). In response, claim 15 has been amended to make it allowable and therefore claim 18, which depends from allowable claim 15, is also allowable.

With respect to the rejection of claim 8, Applicants respectfully submit that this rejection has been traversed in view of the amendments to claim 1. Specifically, Wittke is clearly deficient as a base reference and because Shepherd is only directed toward a caster guard in no way teaches or suggests how to mount a caster assembly to a tank or a vacuum cleaner, Applicants respectfully submit that Shepherd does not address the deficiencies of amended claim 1 as set forth above and therefore the obviousness rejection of claim 8 in view of Wittke and Shepherd is improper and should be withdrawn.

Similarly, the rejection of claim 12 and 13 as being obvious in view of Wittke is also traversed. Wittke is insufficient as a base reference for any obviousness rejection of amended claim 1 and therefore claims 12 and 13, which depend from allowable claim 1 are also allowable.

Finally, the Office Action rejects claims 19-23, 25, 26 and 29 under 35 U.S.C. §103 as being unpatentable over Wittke in view of U.S. Patent No. 5,924,165 ("Gierer"). In response, claim 19 has been amended in a manner similar to amended claim 1 thereby traversing this rejection. Specifically, Wittke is deficient as a base reference because it does not teach or suggest how to mount a caster radially outside of a cylindrical tank.

Wittke, on the other hand, teaches the use of a drum mount 72 whereby the caster foot assembly 60 is mounted to a drum or tank with a mount 72. Gierer does not teach the inner and outer wall structure of a caster assembly that provides a receiving area for a bead of a drum or tank.

Any attempt to combine Gierer and Wittke would result in a design that simply does not work. Wittke is obviously a metallic structure and relies upon the tension created between a straight inner wall 26 as shown in Fig. 4 of Wittke and the curved outer wall 16 as shown in Fig. 4 as well as Figs. 2 and 6 of Wittke. Thus, instead of utilizing the inwardly extending ledge recited in amended claim 19, Wittke design requires brute force to get the caster assembly on the bucket. In any event, Wittke in no way teaches or suggests how to get its wheels disposed radially outside of the bucket.

If one were to combine Wittke and Gierer, there would be no radially inwardly extending ledge and it is still unclear how to modify the Gierer design with the design of Wittke to come up with a device that would include the recited female receiving area of amended claim 9 because neither reference teaches or suggests the inwardly extending ledge connected to the outer wall. Thus, no combination of Wittke and Gierer teaches or suggests all the claim limitations of amended claim 19 and there is no suggestion or motivation in either reference to combine the two references together. In any event, any hypothetical combination of these two references still fall short of reciting every limitation of amended

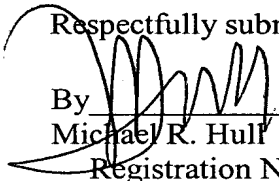
claim 19 and therefore the rejection of claims 19-23, 25-26 and 29 as being obvious in view of Wittke and Gierer is improper and should be withdrawn.

Claim 30 is allowed. Claim 6 is indicated as being allowable and therefore new claim 31 is a combination of original claims 1 and 6 and is therefore allowable. Claim 10 is indicated as being allowable and therefore new claim 32 is a combination of original claims 1 and 10 and is therefore allowable as is claims 33 and 34 which depend from new claim 32 and are therefore the equivalents of dependent claim 11 and 14, which are also indicated as being allowable. Claim 17 is also indicated as being allowable and claim 17 has been cancelled and combined with amended claim 15 which is therefore in a condition for allowance. Claim 24 is indicated as being allowable and therefore new claim 35 is a combination of claims 19 and 24 and is therefore allowable. Claims 27 and 28 are indicated as being allowable and therefore new claim 36 is a combination of original claims 19 and 27 and is therefore allowable and new claim 37 is a copy of original claim 28 and depends from allowable claim 36 and is therefore also allowable.

With all rejections being traversed, Applicants respectfully submit that this application is in a condition for allowance and an early action so indicating is respectfully requested.

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Respectfully submitted,

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